

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JUNE M. CANTRELL, FREDDIE
4 CANTRELL, JR.,

5 Plaintiffs,

6 vs.

7 CAPITAL ONE, N.A.,

8 Defendant.
9

Case No.: 2:15-cv-2023-GMN-GWF

ORDER

10
11 Pending before the Court is the Motion to Reconsider, (ECF No. 37), filed by *pro se*
12 Plaintiffs June Cantrell and Freddie Cantrell. For the reasons set forth herein, the Motion will
13 be DENIED.

14 **I. BACKGROUND**

15 This case centers upon allegations that Capital One wrongfully foreclosed upon
16 Plaintiffs' residence, located at 2717 Saint Clair Drive, Las Vegas, Nevada 89128 (the
17 "Property"). *See* (Compl., ECF No. 1).¹ On October 1, 2004, Plaintiffs obtained a mortgage
18 loan, which was secured by a Deed of Trust on the Property. (*Id.* ¶ 6). Plaintiffs allege that
19 Capital One foreclosed upon the Property on May 27, 2015. (*Id.* ¶ 24). Plaintiffs also allege
20 that Capital One committed numerous acts of fraud and forgery, and that the Deed of Trust was
21 illegally transferred prior to the foreclosure sale. *See generally* (Compl.).
22

23
24
25 ¹ In light of Plaintiffs' status as *pro se* litigants, the Court has liberally construed their filings, holding them to standards less stringent than formal pleadings drafted by attorneys. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

1 Based on these allegations, the Complaint purported to allege the following causes of
2 action: (1) slander of title, (2) quiet title, (3) wrongful foreclosure, (4) civil conspiracy, (5)
3 Truth in Lending Act (“TILA”) violations, (6) predatory lending practices, (7) fraudulent
4 appraisal, (8) breach of contract, (9) fraudulent concealment, (10) breach of the implied
5 covenant of good faith and fair dealing, (11) breach of fiduciary duty, and (12) Fair Debt
6 Collection Practices Act (“FDCPA”) violations. (*Id.*).

7 On April 26, 2016, the Court dismissed the Complaint with prejudice pursuant to the
8 doctrine against claim splitting. (Dismissal Order, ECF No. 35). In the instant Motion,
9 Plaintiffs argue that the dismissal was in error.

10 **II. LEGAL STANDARD**

11 Rule 60 of the Federal Rules of Civil Procedure provides a standard by which the Court
12 may reconsider its orders. This rule, governing relief from a judgment or order, provides in
13 part:

14 On motion and just terms, the court may relieve a party or its legal representative from a
15 final judgment, order, or proceeding for the following reasons:

16 (1) mistake, inadvertence, surprise, or excusable neglect;

17 (2) newly discovered evidence that, with reasonable diligence, could not have been
18 discovered in time to move for a new trial under Rule 59(b);

19 (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or
20 misconduct by an opposing party;

21 (4) the judgment is void;

22 (5) the judgment has been satisfied, released or discharged; it is based on an earlier
23 judgment that has been reversed or vacated; or applying it prospectively is no longer
24 equitable; or

25 (6) any other reason that justifies relief.

1 Fed. R. Civ. P. 60(b). The Ninth Circuit has distilled the grounds for reconsideration into three
2 primary categories: (1) newly discovered evidence; (2) the need to correct clear error or prevent
3 manifest injustice; and (3) an intervening change in controlling law. *School Dist. No. 1J v.*
4 *ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).

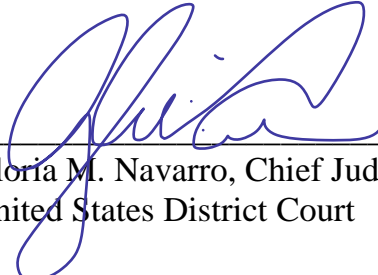
5 **III. DISCUSSION**

6 In the instant Motion, Plaintiffs argue that the Court's dismissal of the Complaint was
7 clearly erroneous. However, instead of addressing the reasoning upon which the dismissal was
8 based, Plaintiffs set forth generalized assertions that the Court's rulings cannot be impartial
9 because "the little guy always loses." (Plaintiffs' Motion 6:7, ECF No. 37). Such assertions fail
10 to present a sufficient basis for reconsideration. Accordingly, Plaintiffs' Motion will be
11 DENIED.

12 **IV. CONCLUSION**

13 **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Reconsideration, (ECF No. 37),
14 is **DENIED**.

15
16 **DATED** this 8 day of August, 2016.

17
18
19 
20 _____
21 Gloria M. Navarro, Chief Judge
22 United States District Court
23
24
25